

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
230 ft. NW of c/l * ZONING COMMISSIONER
of Seminary Avenue
1504 Pickett Road * OF BALTIMORE COUNTY
8th Election District * Case No. 91-255-A
4th Councilmanic District
Bruce D. Frith, et ux
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a zoning variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory building (shed) to be .5 ft. from their rear property line and 1.5 ft. from the side property line in lieu of the required 2.5 ft., as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners appeared, testified and were represented by Stuart D. Kaplow, Esquire. Appearing and testifying as Protestants were Marjorie M. Michenfelder, Joyce A. Paxton and Paul T. Baker. Also appearing as Protestants were Henry and Dorothy Pierce, Julia Smallan, and William A. Paths.

Testimony indicated that the subject property known as 1504 Pickett Road consists of .18 acres +/- zoned D.R.5.5 and is currently improved with a single family dwelling, skate ramp and the subject 8 x 10 ft. shed. The subject structure is of wooden construction with a barn style roof. Mr. Frith testified that he selected the current location of the shed based on topographic and convenience factors. Mr. Frith testified that he did not want to locate the shed in the open space portion of his rear yard due to the fact that he and his sons play ball in this area and locating the shed there would prohibit this activity. Testimony also indicated that upon choosing the current location of the shed, the Maple

tree indicated on Petitioner's Exhibit No. 1 dictated to a large degree where Mr. Frith could locate the shed in relationship to the rear boundary line. Mr. Frith testified that, in an attempt to comply with the setback requirements of the B.C.Z.R., he erroneously measured from the utility pole indicated on Petitioner's Exhibit No. 1, said pole not being located precisely on the boundary line. Although the subject shed is still under construction, Mr. Frith testified that it would be difficult to move the shed in lieu of the subject Maple tree and the weight of the building.

Mrs. Joyce A. Paxton, Protestant, testified that her property lies to the rear of Mr. Frith's property. She testified that she had plantings that pre-existed Mr. Frith's shed along the common boundary line. She testified that Mr. Frith located the subject building so close to her plantings that she was forced to remove and relocate them in another area of her property.

Marjorie M. Michenfelder and Paul T. Baker, Protestants, concurred regarding their objection to the placement of the subject shed. Testimony on behalf of Mrs. Michenfelder indicated that the subject shed is pressing against her Holly tree indicated on Protestant's Exhibit No. 1. Mrs. Michenfelder, assisted by Paul T. Baker, indicated that she would like the shed moved to comply with the B.C.Z.R. thereby protecting her Holly tree from additional harm from the shed.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

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- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

In reviewing the evidence, there is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the requested variance was denied. The testimony presented by the Petitioner was in support of a matter of a preference rather than of the necessity for the variance. While a zoning variance is a mechanism to alleviate undue hardship and practical difficulty by the strict application of the B.C.Z.R., it was not the intent of the drafters of said regulations to thrust a hardship from the person seeking a zoning variance onto adjoining property owners as a result of the granting of the variance. Currently, the Petitioner has a skate ramp constructed in his backyard which measures approximately 18.5 ft. by 17-1/2 ft. which consumes a major portion of the usable space of the Petitioner's backyard. The construction and placement of the skate ramp and the Maple tree, indicated on Petitioner's Exhibit No. 1, has seriously limited Petitioner's choices in locating the subject shed. However, in an attempt to avoid damage to his own Maple tree, Petitioner has seriously encroached upon the plantings and enjoyment of his adjoining neighbor's property. The variance mechanism was not created to shift the hardship from one property owner onto an adjoining property owner. The Petitioner has failed to show

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that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 1st day of May, 1991 that the Petition for a Zoning Variance from Section 400.1 of the B.C.Z.R. to allow an accessory building (shed) to be .5 ft. from their rear property line and 1.5 ft. from the side property line in lieu of the required 2.5 ft., in accordance with the Petitioner's Exhibit No. 1, is hereby DENIED.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mm
cc: Peoples Counsel

-4-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

April 30, 1991

Stuart D. Kaplow, Esquire
Suite 630
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Zoning Variance
Case No. 91-255-A
Bruce D. Frith, et ux, Petitioners

Dear Mr. Kaplow:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been denied in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mm
encl.
cc: Peoples Counsel

Mr. and Mrs. Bruce D. Frith
1504 Pickett Road
Lutherville, Maryland 21093

Mrs. Marjorie M. Michenfelder
1502 Pickett Road
Lutherville, Maryland 21093

Mrs. Joyce A. Paxton
36 E. Seminary Avenue
Lutherville, Maryland 21093

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-255-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.1 to allow an accessory building (shed) to be .5 ft. from rear and 1.5 ft. from side property line in lieu of 2.5 ft.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the reasons: (indicate hardship or practical difficulty)

1. Shed would have to be disassembled and possibly damaged in the process to move it; if damaged it would be a financial loss.
2. Shed sits on the most level logical location with only minimum excavation required.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s):

Bruce D. Frith
(Type or Print Name)

Signature

Mary V. Frith
(Type or Print Name)

Signature

Attorney for Petitioner:

Stuart D. Kaplow
(Type or Print Name)

Signature

210 West Pennsylvania Avenue
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No. 821-3100

1504 Pickett Road W. 321-8318
Address Phone No.

Lutherville, Maryland
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 28 day

of 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through-out Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12 day of May, 1991, at 2 o'clock

ORDER RECEIVED FOR FILING

Date

By

05/01/91

By

05/01/91

By

05/01/91

By

05/01/91

By

05/01/91

By

05/01/91

By

05/01/91

By

05/01/91

By

05/01/91

ZONING DESCRIPTION

Beginning at a point on the west side of Pickett Road which is 50' wide at the distance of 200' north of the centerline of the nearest improved intersecting street Seminary Avenue which is 60' wide. *Being Lot #4, Block A, Section 3 in the subdivision of Bridlewood as recorded in Baltimore County Plat Book #19, Folio #55, containing 7,873.20 square feet. Also known as 1504 Pickett Road and located in the 8th Election District.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 8th Variance Date of Posting: 4/25/91
Posted for: Bruce D. Frith, et ux
Petitioner: Bruce D. Frith, et ux
Location of property: 230' NW of Seminary Ave., at 1504 Pickett Rd.
Location of Sign: Pickett Rd., approx. 12' E. of roadway, on property of Petitioner.
Remarks: Matthew
Posted by: Matthew
Number of Signs: 1

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 8th Variance Date of Posting: 7/2/91
Posted for: Bruce D. Frith, et ux
Petitioner: Bruce D. Frith, et ux
Location of property: 423' Pickett Rd., approx. 62' N. of roadway, at 1504 Pickett Rd.
Location of Sign: Pickett Rd., approx. 25' E. of roadway, on property of Petitioner.
Remarks: Matthew
Posted by: Matthew
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1-18, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1-17, 1991.

TOWSON TIMES,

S. Zake Olson
Publisher

\$ 78.67

Baltimore County Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

rege

No 3771

Date

10/29/90

HP100152

PUBLIC HEARING FEES	QTY	PRICE
010 - ZONING VARIANCE (IRL)	1 X	\$25.00
TOTAL:		\$25.00

LAST NAME OF OWNER: FRITH

04A04H0042MCHRC \$35.00
BA C004+111PMLD-29-90
Please make checks payable to: Baltimore County EXT BUSINESS DAY

Cashier Validation:

receipt

Baltimore County Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

91-255

Date

4/17/91

HP100951

PUBLIC HEARING FEES	QTY	PRICE
030 - POSTING SIGNS / ADVERTISING	1 X	\$25.00
TOTAL:		\$25.00

LAST NAME OF OWNER: FRITH

04A04H0177MCHRC \$25.00
JRB1+66PMD4-17-91
Please Make Checks Payable To: Baltimore County

Cashier Validation:

Baltimore County Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

receipt

Date

1/29/91

HP100687

PUBLIC HEARING FEES	QTY	PRICE
030 - POSTING SIGNS / ADVERTISING	1 X	\$103.67
TOTAL:		\$103.67

LAST NAME OF OWNER: FRITH

04A04H0082MCHRC \$103.67
G01+49PMD2-12-91
Please Make Checks Payable To: Baltimore County

Cashier Validation:

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Date: 1/29/91

Mr. & Mrs. Bruce D. Frith
1504 Pickett Road
Lutherville, Maryland 21093

RE:
Case Number: 91-255-A
230' NW of c/l Seminary Avenue
1504 Pickett Road
8th Election District - 4th Councilmanic
Petitioner(s): Bruce D. Frith, et ux
HEARING: TUESDAY, FEBRUARY 12, 1991 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that \$ 103.67 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 115, Towson, Maryland 21204 (15 minutes before your hearing is scheduled to begin).

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: Stuart D. Kaplow, Esq.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1-18, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1-17, 1991.

THE JEFFERSONIAN,

S. Zake Olson
Publisher

\$ 78.67

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 91-255-A
230' NW of c/l Seminary Avenue
1504 Pickett Road
8th Election District
4th Councilmanic
Petitioner(s):
Bruce D. Frith, et ux
Hearing Date: Tuesday,
Feb. 12, 1991 at 2:00 p.m.
Variance: to allow an accessory building (shed) to be .5 ft. from rear and 1.5 feet from side property line in lieu of 2.5 ft.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
TOWSON, MD. Jan. 17,

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

January 8, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-255-A
230' NW of c/l Seminary Avenue
1504 Pickett Road
8th Election District - 4th Councilmanic
Petitioner(s): Bruce D. Frith, et ux
HEARING: TUESDAY, FEBRUARY 12, 1991 at 2:00 p.m.

variance to allow an accessory building (shed) to be .5 ft. from rear and 1.5 feet from side property line in lieu of 2.5 ft.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: Bruce D. Frith, et ux
Stuart D. Kaplow, Esq.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

February 26, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-255-A
230' NW of c/l Seminary Avenue
1504 Pickett Road
8th Election District - 4th Councilmanic
Petitioner(s): Bruce D. Frith, et ux
HEARING: WEDNESDAY, APRIL 17, 1991 at 2:00 p.m.

Variance to allow an accessory building (shed) to be .5 ft. from rear and 1.5 feet from side property line in lieu of 2.5 ft.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: Bruce D. Frith, et ux
Stuart D. Kaplow, Esq.
Resident/1502 Pickett Road/21093
Joyce A. Paxton/36 E. Seminary Ave./21093
Henry & Dorothy Pierce/1500 Pickett Road/21093
Resident/1503 Pickett Road/21093
Resident/1507 Pickett Road/21093

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-255-A
230' NW of c/l Seminary Avenue
1504 Pickett Road
8th Election District - 4th Councilmanic
Petitioner(s): Bruce D. Frith, et ux
HEARING: WEDNESDAY, APRIL 17, 1991 at 2:00 p.m.

Variance to allow an accessory building (shed) to be .5 ft. from rear and 1.5 feet from side property line in lieu of 2.5 ft.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: Attorney
Petitioner
Protestants

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

February 1, 1991

Stuart D. Kaplow, Esquire
Suite 630, 210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Item No. 192, Case No. 91-255-A
Petitioner: Bruce D. Frith, et ux
Petition for Zoning Variance

Dear Mr. Kaplow:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Bruce D. Frith
1504 Pickett Road
Lutherville, MD 21093

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME ADDRESS

MARJORIE M. MICHENFELDER 1502 PICKETT RD. LUTHERVILLE, MD 21093
 BRUCE A. PRITCHARD 365 SEMINARY AVE. 21093
 FRANK B. BAKER 113 GALSWOOD RD. ANNAPOLIS, MD (222-6873) 21093

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

91-255A

NAME

ADDRESS

BRUCE D. FRITH 1504 PICKETT RD. 21093
 1504 PICKETT RD.

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

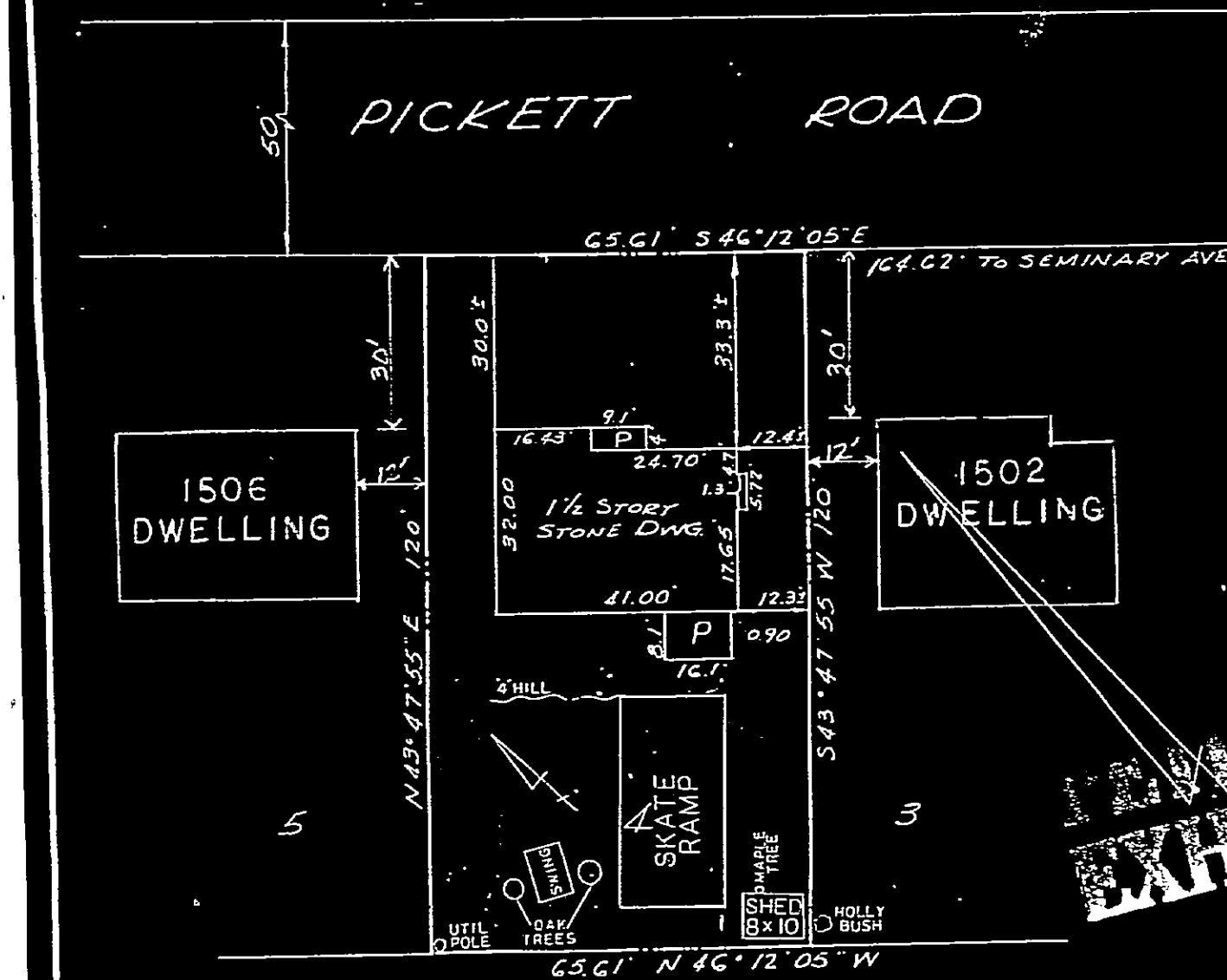
PROPERTY ADDRESS: 1504 Pickett Road

see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: Bridlewood

plat book # 19, folio # 55, lot # 4, section # 3

OWNER: Bruce D. and Mary V. Frith



Subject Property
 Seminary Ave.

Vicinity Map
 scale: 1"=1000'

LOCATION INFORMATION

Councilmanic District: 4

Election District: 8

1"=200' scale map: NE - 12-A.

Zoning: DR-55

Lot size: 7,873.2 square feet

sewer: ☐ water: ☐

Chesapeake Bay National Area: ☐

Zoning Hearings: None

Zoning Office USE ONLY!

reviewed by: ITEM #: CASE#:

91-255-A

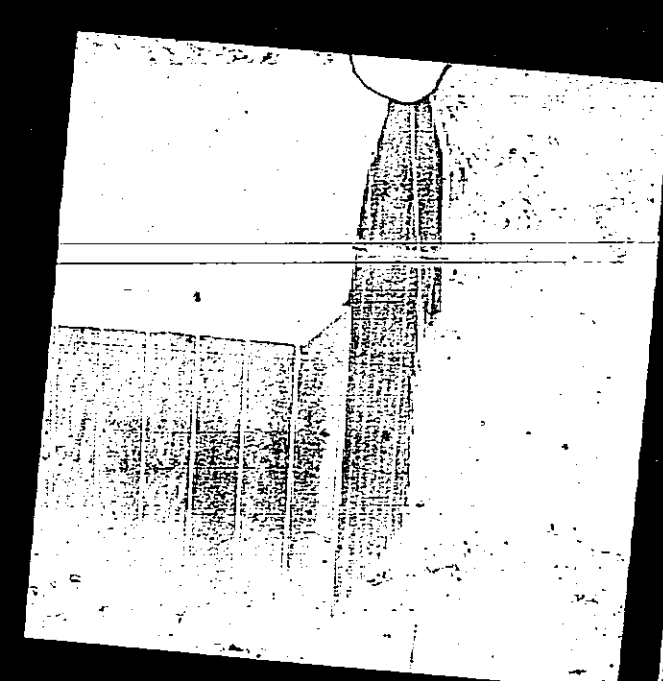
date: 10/29/90

prepared by: hbf/mvf

Scale of Drawing: 1"= 30'

91-255A

Protestants
 Exhibit 1



PETITIONER(S) EXHIBIT 2, 91-255A

